

***NORTHWESTERN HAWAIIAN ISLANDS  
CORAL REEF ECOSYSTEM RESERVE ADVISORY COUNCIL MEETING***

**Wednesday, June 1, 2005, 8:30 a.m. – 12:30 p.m.**

**Thursday, June 2, 2005, 8:30 a.m. – 4:30 p.m.**

*Reserve Office Conference Room  
6600 Kalaniana'ole Highway, Suite 300  
Hawai'i, O'ahu*

Draft Notes

Day One

ATTENDEES [Advisory Council Members]: Paul Achitoff (Conservation); William Aila (Native Hawaiian); Isabella Aiona Abbot for Louis "Buzzy" Agard (Native Hawaiian); Bobby Gomes (Commercial Fishing); Gail Grabowsky (Education); Rick Hoo for Rick Gaffney (Recreational Fishing); Marcia Hamilton for Kitty Simonds (Western Pacific Fishery Management Council (WPFMC)); Cindy Hunter (Research); Tim Johns (State of Hawai'i); Kem Lowry (Citizen at Large); Lloyd Lowry (Marine Mammal Commission); Naomi McIntosh (Hawaiian Islands Humpback Whale National Marine Sanctuary); John Muraoka (U.S. Department of Defense); Don Palawski for Jerry Leinecke (U.S. Fish and Wildlife Service); Linda Paul (Conservation); Don Schug (Research); Laura Thompson (Conservation); Aulani Wilhelm (NWHI CRER); Matt Zimmerman (Ocean-Related Tourism); *Excused:* Mike Tosatto for Bill Robinson (NOAA National Marine Fisheries); Bill Gilmartin (Research); Rick Gaffney (Recreational Fishing); Scott Kikiloi (Native Hawaiian) *Absent:* Ray Arnaudo (U.S. Department of State); Philip Taylor (National Science Foundation); Captain Fred Tucher for CDR Robert Wilson (U.S. Coast Guard)

[Alternate Council Members (not representing voting members)]: Carol Wilcox (Conservation)

[NWHI CRER Staff]: Andy Collins; Takiora Ingram; Moani Pai; Kaliko Amona; Emily Fielding; Sean Corson; Tommy Friel; Naomi Sodetani; Malia Chow; Hokuala Johnson

[NMSP Staff]: Charly Alexander; Allen Tom; Keeley Belva

[Members of the Public]: Marti Townsend (KAHEA); Cha Smith (KAHEA); Kelly Finn (Citizen); Kris Balliet (Ocean Conservancy)

PURPOSES OF THE MEETING: To discuss and provide formal advice on: 1) alternative(s) to be analyzed in the Draft Environmental Impact Statement (DEIS), and 2) on the development of the draft management plan.

I. CALL TO ORDER (JOHNS)

The meeting was called to order by the Chairperson at 8:46 am. Pule was given by William Aila to start the meeting. Reserve Advisory Council members (RAC), staff and other members of the audience went around the room and introduced themselves.

## II. REVIEW AND APPROVAL OF MINUTES (JOHNS)

Marcia Hamilton noted that she would like to see a record reflected in the January 26-27, 2005 meeting minutes of the minority opinion. Speaking on behalf of the WPFMC Council; she noted that in her opinion, the minutes were incomplete. Tim Johns commented that the notes will be looked at again to include minority opinion on the second day of the RAC meeting. Even though the Western Pacific Fishery Management Council (WPFMC) isn't a voting member, Hamilton stated that she would check with Jarad Makaiau (WPFMC representative who attended the January 26-27, 2005 RAC meeting) on his recollection of the minority opinion. There was discussion on incorporating minority/dissenting opinion in the meeting minutes. Cindy Hunter commented that the RAC doesn't hear dissenting opinion that often.

Approval of minutes was deferred until the second day of the meeting (June 2, 2005).

## III. REVIEW AND APPROVAL OF AGENDA (JOHNS)

Johns noted a change to the agenda on the report on the Northwestern Hawaiian Islands Marine Refuge Act of 2005 ("H.R. 2376") will be changed in the agenda and moved from June 2, to June 1. The report on H.R. 2376 will be given by Representative Ed Case, instead of Allen Tom.

## IV. PRIORITIZATION OF MANAGEMENT PLAN STRATEGIES EXERCISE (ALEXANDER)

Charly Alexander introduced himself as the facilitator for the prioritization of management plan strategies exercise. He then provided an overview of the exercise and reviewed the ranking system. Paul Achitoff asked where the strategies came from; Emily Fielding stated that they came verbatim out of the management plan. Kem Lowry asked how the results of this exercise were going to be used. Alexander stated that the exercise was for the RAC, allowing them to be able to look at the strategies in a more ordered fashion. Lowry suggested that the RAC take the exercise home and come back tomorrow and to discuss the points of contention. Johns stated that this exercise is not an action item and the exercise is to help the RAC with their priorities in the management plan/alternative development process. Johns stated that the exercise was to go on as scheduled.

There was discussion on clarifying the criteria used in the ranking part of the prioritization exercise between Johns and Gail Grabowsky. Johns clarified that the criteria was based on what was important, not what is actually implementable. Hamilton suggested adding criteria on if a strategy is duplicative. Alexander stated that this exercise isn't about eliminating strategies. Johns referenced the management plan binder and asked that the RAC please review the goals and objectives again quickly before the commencement of the prioritization exercise.

Hamilton stated that the Council (WPFMC) doesn't agree with the goals and objectives in the management plan. Achitoff also stated that he personally doesn't agree with the goals and objectives in the management plan.

Discussion on the priority management plan strategies exercise began.

Achitoff stated that he thought this exercise was a waste of time. Linda Paul stated that people obviously haven't read the management plan and should because the RAC would be writing two resolutions on the management plan and alternatives over the next day and a half. Johns stated that the voting and ranking system in this exercise is arbitrary, but stated that this exercise should be completed.

Johns also stated that the RAC doesn't want this prioritization exercise by the agency to reflect the RAC's views and be used as any type of indication of voting on the RAC. Achitoff asked that the record reflect his statement that the recording of votes on this exercise is arbitrary. The exercise continued.

After the first pass over the strategies in the management plan, Johns asked staff to give an overview of how these strategies were organized. Fielding talked about the five priority management needs and the management plan structure and action plans. Johns then stated that the strategies are important because they explain the direction the agency is taking in terms of spending money and what's important to the agency. Johns also stated that the RAC needs to state their agreement/disagreement with these strategies and the management plan in drafting the resolutions.

Alexander asked Kaliko Amona to explain the ranking system on her easel. Amona proceeded to explain the ranking on the chart. Hamilton asked for clarification on some of the ranking. 'Aulani Wilhelm commented that the ranking system is significant because it gives a macro-prospective on the priorities of the RAC regarding the strategies in the management plan. Johns stated that this exercise is important because it focuses on general themes that are important to the RAC. Johns stated that the ranking should be used as a tool in developing the management plan resolution and should be deleted upon the conclusion of the meeting.

Wilhelm then stated that the actual wording of the strategies may need to be clarified so one knows the strategy at a glance, by the strategy description. Discussion continued by various RAC members on the actual priorities of the RAC.

Upon completion of the first run-through of the priority management need exercise, the RAC then discussed priorities by priority management need area. Wilhelm and Johns began dialogue on priorities by management area need and the outcome of the exercise.

Achitoff asked for a report on the 304(a) (5) document. Cindy Hunter asked for clarification on the Pacific Islands Regional Office (PIRO), and its role in the National Oceanic and Atmospheric Administration (NOAA). Hamilton stated that WPFMC is a quasi-federal agency and recommendations made by WPFMC are then transmitted from WPFMC to PIRO and up the NOAA food chain. WPFMC provides advice to PIRO. Explanation of the structure of WPFMC, National Marine Fisheries Service (NMFS) and PIRO and the development of the management plan and alternatives path continued.

Johns called for a break at 10:00 am.

## V. SUBCOMMITTEE REPORT ON DRAFT RESOLUTIONS

The meeting convened at 10:24 am

Johns gave an overview of the draft resolutions that the Management Plan Subcommittee (MPSC) worked on. Johns thanked Kem Lowry for his facilitation of the subcommittee process. Johns referred to the notes of the May 4<sup>th</sup> subcommittee and the two resolutions (alternative and management plan) that were provided to the public and the RAC as handouts.

Paul then provided an overview of the resolutions that were drafted and described the handouts for the resolution exercises. Paul stated that a lot of the management plan resolution contains information on permitting.

Johns asked that the RAC take home both the management plan and alternative resolutions and review them tonight (June 1, 2005) for discussion tomorrow (June 2, 2005). Johns stated that the RAC will have an opportunity to formally comment on the DEIS tomorrow afternoon. Johns asked if there were any questions on the subcommittee process and thanked the staff, the public and the MPSC members for their work on the two resolutions.

Representative Case entered the room.

## VI. REPORT ON THE NORTHWESTERN HAWAIIAN ISLANDS NATIONAL MARINE REFUGE ACT OF 2005, INTRODUCED BY REPRESENTATIVE ED CASE (REPRESENTATIVE ED CASE)

Representative Case passed out handouts to the RAC and public on the legislation he introduced to Congress on May 16, 2005, H.R. 2376. Johns then asked that all members introduce themselves to Representative Case; as well as the public and the Northwestern Hawaiian Islands Coral Reef Ecosystem Reserve (NWHICRER) staff.

Representative Case provided an overview of H.R. 2376, The Northwestern Hawaiian Islands National Marine Refuge Act of 2005. Case emphasized that his constituents want the NWHI to be a refuge. Representative Case stated that in his opinion, the direction the Department of Commerce (DOC) is taking is not exactly the direction the public desires. He stated that he thought that institutionally the RAC is the last line of defense, and they are in a position to express the will of the people and their respective constituencies

Representative Case stated that the government will not express the public's sentiments and that the RAC is the best body to represent the public and that the RAC will have a big role in the protection of the Northwestern Hawaiian Islands (NWHI).

**Representative Case then stated that he's done the following through introducing H.R. 2376:**

- H.R. 2376 has provisions for Non-extractive use – “period”

- Will keep his newly created Office of National Marine Sanctuaries and Refuges in the Department of Commerce (DOC), not going to switch and put under the Department of Interior (DOI)
- Designed H.R. 2376 so it can evolve naturally
- In H.R. 2376, taken the National Marine Sanctuary Program and turned it into the “Office of National Marine Sanctuaries and Refuges” giving them power to create a true refuge which will allow that office a greater level of responsibility
- Chose the term “refuge” because we thought that it was appropriate
- Have boundaries of proposed refuge go into U.S. Fish and Wildlife areas of jurisdiction but not all the way
- Representative Case stated that he has no problem with USFWS and state, but has problem with DOC and their current action
- Concerned that change of administration within the state will jeopardize the state NWHI boundaries
- Proposed some boundary overlap with the state to address that issue
- Representative Case noted that boundaries bulge past Kure Atoll – because of noted resource value, nesting grounds and other important resources
- H.R. 2376 preserves Native Hawaiian cultural uses
- Representative Case stated that through introducing H.R. 2376, this legislation is providing a level of protection that’s above and beyond anything else currently out there
- Stated that he’s entirely responsible for the content of H.R. 2376
- Also stated that he has met with Admiral Lautenbacher (Undersecretary of Commerce for Oceans and Atmosphere and NOAA Administrator) to talk about his legislation (H.R. 2376) and stated that Admiral Lautenbacher will consider the bill in good faith
- Has written state of Hawai‘i Governor Linda Lingle to support and endorse H.R. 2376 and requested that she work with the Bush Administration to protect the NWHI (referred to letter that he wrote)

**Things Representative Case mentioned that he’s going to do**

- Write President Bush and ask for his support of H.R. 2376
- Try to work up support inside congress – House and Senate
- Going to “nationalize” and “internationalize” the issue of the NWHI as a National Marine Refuge
- Representative Case then stated that people are concerned about precedent that this bill sets and commented that fishers have innate fear that the U.S. government is going to zone the oceans. He then stated that he will provide further education on H.R. 2376 and address those fears

**What Representative Case asked of the RAC:**

- Encouraged their deviation off “the current path” of National Marine Sanctuary designation process
- Talked about compensation of members of RAC contained in H.R. 2376 (page 15-16)
- Asked for the RAC member’s endorsement of H.R. 2376
- Also asked that H.R. 2376 be included as an alternative in the DEIS

**Comments/Questions on H.R. 2376:**

Johns thanked Representative Case for his taking the time out to come in and then asked Representative Case what he thought the odds were that H.R. 2376 will get passed in congress. Representative Case stated that the chances are pretty long; factors that may improve H.R. 2376 passage would be the presidents' possible endorsement and Governor Lingle's endorsement of H.R. 2376. Things that may hinder passage of H.R. 2376 may be opposition from WPFMC and other fishery management entities. Representative Case also stated that he hasn't talked to the rest of the Hawai'i Congressional delegation and that he didn't consult with them when introduced H.R. 2376.

Don Schug asked about treating people fairly (fishers) and asked if they would be provided compensation. Representative Case mentioned that he's not opposed to grandfathering in the current fishermen, as long as fishing is phased out from the NWHI over a period of time.

Bobby Gomes talked about fishing in the NWHI and asked for consideration for extractive use. Gomes then compared his fishing to farming and stated that it would be a shame to waste the resource (fish in the NWHI). Gomes wanted to make sure that Representative Case knew that the fishermen are currently regulated and they are a small group, all of which are good stewards of their respective fishing grounds.

Representative Case stated that the fishing issue boiled down as a policy call and then talked about answering the "just compensation question" for the fisherman. Representative Case then mentioned that he disagrees with WPFMC and their study of potential opening up of fisheries in the NWHI that were previously decimated.

Gomes noted that the fishers up there (in the NWHI) do not have the voice to represent themselves adequately.

Hamilton stated that Representative Case's stance is indeed a moral one. Hamilton mentioned that it's possible that current fishing permits could roll over. Hamilton then stated that it is disturbing to think that closing well-managed fisheries in the NWHI and importing fish from poorly managed fisheries in Fiji and Tonga. Hamilton stated that implications from H.R. 2376 will mean importing fish from poorly managed fisheries. Representative Case commented that he wished that fisheries could be managed in a more sustainable way all around the world. He then mentioned previous legislation that he introduced on sustainable fisheries.

Gail Grabowsky mentioned that due to the fact that the NWHI are so large and pristine, would that better the President's chance of endorsing H.R. 2376. Representative Case stated that this issue may be appealing to the president because its "easy" and worth the money it would take to buy out the current nine fishermen.

Grabowsky then asked if Representative Case felt he was the right person to introduce H.R. 2376. Representative Case stated that no one has mentioned any major issues with the contents of H.R. 2376. He then stated that he "feels good about the introduction of this bill."

Achitoff stated that he thinks H.R. 2376 is one of the most remarkable bills he's read. As a policy matter, he's very impressed by the introduction of this bill. Achitoff also thanked Representative Case for writing and introducing H.R. 2376.

Johns then asked Representative Case how the RAC as a whole can assist with the support of H.R. 2376.

**Case asked that the RAC:**

- 1) Provide comments and thoughts on H.R. 2376
- 2) Influence decision-makers (Congressional delegation, Governor, etc.)
- 3) Needs support for H.R. 2376 and fair consideration by the DOC
- 4) Needs support of the current respective state and federal administrations
- 5) Would like the RAC to assist in making the NWHI a international/national issue

Representative Case then mentioned Ann Stewart – his communications director as the designated person on his staff to work with on H.R. 2376.

Johns thanked Representative Case.

## VII. DISCUSSION ON DRAFT ALTERNATIVE(S) AND MANAGEMENT PLAN RESOLUTIONS

Johns mentioned two issues which recently happened that the Management Plan Subcommittee didn't address when working on the management plan and alternative draft resolutions:

- 1) State refuge
- 2) H.R. 2376 introduced by Representative Ed Case

Paul began discussion on deciding which of the two resolutions to start working on.

Johns suggested that staff draw up a graphical illustration of the H.R. 2376 scenario in map form. Allen Tom left the meeting to see if that was feasible by staff to produce a graphical illustration of that scenario for the RAC to review the next day of the meeting (June 2, 2005).

Hamilton mentioned that the draft resolutions could be written in a more objective way and mentioned considering different language (wordsmithing) the resolutions. Johns requested that Hamilton draw up comments on how to further objectify the resolutions. Achitoff requested that the vote record be incorporated in the resolutions. Hamilton asked about the procedures regarding the recording of votes on action items and the minority position in transmittal letters and resolutions.

Matthew Zimmerman asked what an endorsement of H.R. 2376 by the RAC would mean. Johns explained that an endorsement wouldn't stop the MP/DEIS process. Paul recommended that instead of blanketly endorsing H.R. 2376, it may be possible to have the RAC endorse parts of H.R. 2376, and look at it piecemeal. Discussion on endorsement of

the bill continued. Johns stated that if any RAC member wanted to draft a resolution on the RAC's endorsement of H.R. 2376, do so and the RAC could act on the resolution during the meeting the next day. Discussion ensued.

Paul then began discussion on development of the management plan resolution. Johns recommended that the RAC take home the draft management plan resolutions. Johns then recommended that the resolution focus on the management plan development process.

### VIII. PUBLIC COMMENT

Chair Johns recognized Cha Smith (KAHEA). Smith commented on H.R. 2376 and requested that the RAC take into consideration all the information surrounding the NWHI as an ecosystem and its role in the main Hawaiian Islands. Smith also commented that the Hui has notes on the draft management plan that they would like incorporated into the discussion on the management plan resolutions. Smith then commented that the NWHI Refuge Act represents the public's input most accurately, and should be reflected as the public's alternative.

Zimmerman asked Smith to name the current members of the Hui. Smith stated the following:

Dave Raney, Isaac Harp, Cha Smith, Uncle Buzzy Agard, Stephanie Fried and Vicky Holt-Takamine.

### IX. UPDATE ON ACTIONS/MOTIONS/RESOLUTIONS FROM JANUARY 26-27 RAC MEETING

Johns briefly went over the action items from the January 26-27, 2005 RAC meeting:

- A. Regarding the status on the RAC's motion to request that the Acting Reserve Coordinator send a letter to Dan Basta to recommend that the National Marine Sanctuary Program (NMSP) request the National Ocean Service (NOS) to incorporate surveillance and enforcement in the NWHI into the mission and capabilities of the NOAA ship Hi'ialakai: Wilhelm stated that the staff of the NWHICRER are currently doing research and the letter to Dan Basta is pending.
- B. Regarding the status on the motion to request that the Acting Reserve Coordinator: (1) send letters to appropriate agencies to inquire if there were any violations in the television show/segment "Hawai'i Goes Fishing/Featuring Nihoa" and (2) contact the show's producers and sponsors to meet with RAC members with fishing experience and reserve staff to discuss whether or not corrections were going to be made: Wilhelm stated that those letters are currently being composed and will be released to the appropriate people shortly.
- C. Regarding the status to request that the Acting Reserve Coordinator prepare a resolution calling for a facilitated RAC Management Plan Subcommittee Workshop on April 6-7, 2005, that will include input and participation from RAC members, alternates and the

public on the sanctuary management plan and the draft environmental impact statement: Wilhelm stated that this is complete.

- D. Regarding the status to request that the RAC send a letter to NOAA via the Acting Reserve Coordinator to thank them for finalizing the Reserve Operations Plan (ROP), urge its implementation, and advise them that the RAC is thereby establishing and ROP implementation subcommittee, parallel with the RAC sanctuary management plan subcommittee, with its first focus on permitting: Johns stated that he is currently writing this letter.
- E. Regarding the status on the establishment of an ROP Implementation Subcommittee to be co-chaired by Bill Gilmartin and Don Schug whose first task will be permitting in the reserve: Johns stated that this has been completed, although the Subcommittee has not yet met. Schug wanted to know how much the Council would like to pursue the discussion on permitting in the ROP subcommittee. Johns asked for comment. Schug and Hunter agreed that in absence of regulations, not sure what the meaning of that permitting discussion would be, if it would be productive. Further discussion on this was postponed until tomorrow (June 2, 2005).
- F. Regarding the status of the formalization of the letter to the Acting Reserve Coordinator regarding Section 304(a)(5) by revising paragraph two and the date: Johns stated that this is complete.
- G. Regarding the status of the proposed letter to send to the Acting Reserve Coordinator regarding misrepresentation of facts extended by the Western Pacific Fishery Management Council (WPFMC) at its public meeting held on January 26, 2005, requesting that copies of the letter be addressed and forwarded to other appropriate agencies; Cindy Hunter to chair a working group to work on a draft response letter for distribution to the RAC via email prior to the February 18, 2005 deadline: Johns stated that this is complete.
- H. Regarding the status of the proposed letter to the Acting Reserve Coordinator to request that NMSP provide a summary of observer sighting data of bottomfishing by area and fishing records of all protected species, including sighting data specifically for monk seals: Johns stated that this is complete.
- I. Regarding the status of the resolution prepared by the RAC that calls for council voting members whose terms are not expiring to serve as panelists for the selection of new council members: Johns stated that this is complete.

Discussion on the alternative resolution ensued. Paul recommended that Johns lead the discussion on alternative 3 (refer to handout). Johns commented that alternative 3 was due to the council deciding to include a non-extractive, non-commercial alternative to be put in the DEIS. Johns stated that the staff will be working on a graphical depiction of option 3 versus the H.R. 2376 proposal and compare the two for discussion tomorrow.

Schug asked if NOS had any comment on the introduction of H.R. 2376. Tom commented on NOS's position on H.R. 2376 and stated that they (NOS) are going to continue on with the management plan/designation process, until/if/when H.R. 2376 is passed.

Naomi McIntosh commented on the reauthorization of the NMSP. McIntosh stated that there are no implications with H.R. 2376 and Congressional reauthorization of the NMSP.

Johns called for suggestions on Action Items/other items that Council members would like to include on the agenda for tomorrow.

X. ADJOURNMENT

Chair Johns adjourned the meeting at 12:21pm.

June 2, 2005

Draft Notes

Day Two

ATTENDEES [Advisory Council Members] Paul Achitoff (Conservation); William Aila (Native Hawaiian); Louis “Buzzy” Agard (Native Hawaiian); Bobby Gomes (Commercial Fishing); Gail Grabowsky (Education); Rick Hoo for Rick Gaffney (Recreational Fishing); Cindy Hunter (Research); Tim Johns (State of Hawai‘i); Eric Kingma (WPFMC); Lloyd Lowry (Marine Mammal Commission); Kem Lowry (Citizen at Large); Naomi McIntosh (Whales); John Muraoka (U.S. Department of Defense); Linda Paul (Conservation); Don Palawski (USFWS); Don Schug (Research); Laura Thompson (Conservation) ‘Aulani Wilhelm (NWHI CRER); Matthew Zimmerman (Ocean-Related Tourism); Carol Wilcox for Laura Thompson (Conservation) in the afternoon. *Excused:* Mike Tosatto for Bill Robinson (NOAA National Marine Fisheries); Bill Gilmartin (Research); Rick Gaffney (Recreational Fishing); Scott Kikilo (Native Hawaiian) *Absent:* Ray Arnaudo (U.S. Department of State); Philip Taylor (National Science Foundation); Captain Fred Tucher for CDR Robert Wilson (U.S. Coast Guard)

[Alternate Council Members (not representing voting members)]: Isabella Aiona Abbott (Native Hawaiian)

[NWHI CRER Staff]: Malia Chow; Moani Pai; Kaliko Amona; Emily Fielding; Sean Corson; Andy Collins; Tom Friel; Naomi Soretani; Hokuala Johnson; Mokihana Oliveira

[NMSP Staff]: Allen Tom; Charly Alexander

[Members of the Public]: Charles Ka‘ai‘ai (WPFMC); Martha Townsend (KAHEA); Cha Smith (KAHEA); Teresa Dawson (Environment Hawai‘i); Kris Balliet (Ocean Conservancy); Erma Agard (Citizen); Dave Raney (Sierra Club)

## I. CALL TO ORDER AND REVIEW OF THE AGENDA FOR THE DAY

The meeting was called to order at 8:48am by Chairwoman Paul. Changes to the agenda included moving up the discussion on draft alternatives and management plan resolutions before the break.

## II. UPDATES

### 1. Report on state NWHI Marine Refuge (INGRAM)

Takiora Ingram commented on the designation of the State Refuge. Eric Kingma raised a question on anchoring to live coral. Ingram said that the state attorney general will be addressing that issue.

### 2. Acknowledgement of departing RAC members (JOHNSON)

Johnson commented that Birgit Winning, Ocean Related Tourism representative resigned from the RAC. Johnson and Malia Chow then passed out Winning’s resignation letter.

Johnson acknowledged Winning for her contributions to the development of the management plan and wished her luck in the future.

3. Update on member selection (JOHNSON)

Johnson then updated the RAC on the selection process. Johnson stated that according to the Executive Order, there were three seats that didn't get enough, or any applications that were qualified to sit in the respective positions on the RAC. Johnson stated that NWHI CRER would be going out again, through the federal register process for applications for the four seats, including the recently opened up Ocean Related Tourism seat. Johnson also stated that she would welcome applications from RAC members that didn't resubmit their applications for consideration.

4. Establishment of Fall RAC meeting dates (JOHNSON)

Johnson then talked about the upcoming RAC meeting which would largely be on updates on ROP implementation and planning for the public hearings which will take place in the winter of 2005-2006. Johnson recommended that the RAC consider October 12, 2005 as a potential meeting date. Lloyd Lowry stated that he can't make October 12, 2005 as he has to attend the 2005 Marine Mammal Commission meeting. Johnson and Paul then agreed to poll the RAC via email over the next couple of weeks, allowing the RAC to consider a couple of different Fall meeting dates.

5. Update on February 2005 Annual SAC Chairs and Coordinator's Meeting (PAUL)

Paul commented on the letter sent to the RAC from Dan Basta and provided a brief overview of the activities which occurred at the annual SAC Chairs and Coordinator's meeting. Paul then urged the Council (RAC) to read the letter on forming a national council. Paul then stated that some councils are wary of reauthorizing the National Marine Sanctuaries Amendment Act at this time. Paul then stated that the RAC would re-visit this issue at the fall meeting.

6. Update on 304(a)(5) process (WILHELM)

Wilhelm introduced two individuals from Brazil visiting the NWHICRER, and then commented that the report on the 304(a)(5) was talked about at the RAC meeting yesterday (06/01/05).

7. 2005 Field Activities Report (WILHELM)

Wilhelm provided an overview of 2003-2005 reserve permits. Wilhelm thanked Dave Raney on his input into this process. Wilhelm then went through reviewing all permit applications and permittees over the years 2003-2005. Achitoff asked about a meeting that permittees attended on planning. Wilhelm stated that the meeting was for coordination between agencies and on sharing resources. The meeting included agencies already involved in research and permitting and University people. Meeting was an agency/internal issue between agency managers/Principal Investigator's (PI's) and folks on the vessel to coordinate the field seasons and permittees.

Gomes asked what the coordination with permits between the agencies was. Gomes asked if one had to get three permits (state, feds, etc) to conduct activities in the NWHI. Wilhelm

stated that yes; one would have to get three different permits depending on the activity being conducted. Wilhelm then stated that the agencies are currently working on consolidating the permitting process. Gomes commented that NOAA and other agencies may want to check software companies to do the mapping and not wait for NOAA charts. Gomes stated that his boat is all computerized, and that they don't use the NOAA paper charts.

Wilhelm introduced the 2005 Field Activities update. She noted that permittees going up to NWHI have to provide a report on the activities they conducted up there within 30 days upon returning.

Chair Paul called for a break at 9:39am

8. Hawai'i Institute of Marine Biology (HIMB) Memorandum of Understanding (MOU) with NMSP (Tom& Chow)

Tom introduced the PowerPoint slide presentation on the HIMB MOU with the NWHI CRER. (See presentation). Tom offered to bring in HIMB scientists that are part of this partnership at future RAC meetings to talk about what they are doing. Chow pointed out that a lot of research that's funded through this partnership does not require that the scientists actually ship out to the NWHI.

Kingma asked if there were other MOU's that the NWHICRER is seeking with other agencies. Tom stated that currently, there weren't any others. Wilhelm stated that there's possibly a letter of agreement with NMFS Science Center to address interagency priorities for research.

Tom also provided an update on the Hi'ialakai.

9. Report by Don Palawski on cruise ships at Midway on behalf of the USFWS\*(added to agenda)

Palawski noted that USFWS makes sure that all activity conducted at Midway, in no way harms the wildlife up there. Palawski provided an update on the system cruise ships go through to work at Midway. Kingma asked how much revenue the cruise ships give to the USFWS. Palawski stated that there is a user fee of \$25,000 to come up to Midway. No tax dollars are used.

Gomes mentioned that the big threats up in NWHI are the cruise ships with foreign ballast water, not the fishing boats currently going up there. Palawski stated that that issue is currently being coordinated with other agencies; and that the regulations don't allow discharge of ballast water within the Reserve and the 12 mile zone. Smith asked about gray water discharge, and holding tanks. Palawski stated that there's NO discharge in the reserve at all; black, gray water or otherwise.

III. DISCUSSION ON DRAFT ALTERNATIVE(S) AND MANAGEMENT PLAN RESOLUTIONS (CONTINUED)

Paul introduced the alternative exercise and explained the different handouts. Additional handouts were passed out. Paul noted that the new documents were different from the ones sent via email in the meeting handouts email. Option one was discussed first. Paul commented that the legends on the example maps were not fleshed out currently. Evan Weinberg was operating the GIS program on the big screen.

Gomes noted that option one wouldn't allow bottomfishing. Dialogue continued between Paul and Gomes about commercial trolling in certain zones. Gomes also stated that in their off-season/time the albacore boats conduct commercial trolling activities. Discussion continued on boundaries in option one.

Aila then presented on option two and talked about the differences between option one and two. Gomes commented on ways all these options would affect the NWHI bottomfishermen. Grabowsky stated that maybe it's cleaner to phase out the current bottomfishermen and let them fish until they can't anymore, and not let anyone else to fish in the reserve after that.

Achitoff stated that the RAC does not have the ability to determine where the regulations go, in his opinion that won't result in a sanctuary that follows any of the maps that were handed out. Achitoff also stated that yesterday it was apparent that Representative Case had been following the issues in the NWHI. That the sanctuary designation process is a matter of politics and power with NOAA and WPFMC and the RAC isn't in the fight. Achitoff also stated that H.R. 2376 is something happening along the lines of what he personally would like to see happen in the NWHI.

Achitoff also stated that WPFMC has been holding up the sanctuary designation process and there's not much that the RAC can do about it. Achitoff stated that H.R. 2376 in effect, gets rid of WPFMC in this process, and he likes that. The only thing that corresponds to what he'd like to see is what is provided in H.R. 2376. Achitoff stated that he sees no flaws in the bill as it currently is written.

Aila stated that what he heard yesterday is that H.R. 2376 states the maximum amount of protection. Hunter stated that the RAC needs to portray the end goal, (yellow map, one big SPA) while grandfathering in the current bottomfishermen. Agard talked about the science of the connectivity of the islands in the NWHI with the MHI and their influence on each other. Agard stated that connectivity will give us some sort of answer.

Schug asked Hunter if she'd support allowing grandfathered bottomfishing in the reserve, and if so, what those restrictions would be. Hunter stated that she would like to represent the end goal over time (see statement in paragraph above). Schug stated that he would like to see an alternative that would defer taking any action on the current bottomfishermen until they are done with their lifetime of fishing.

Kingma stated that WPFMC didn't agree with RAC's statement that WPFMC's been holding up this process for five years. Achitoff stated that Kingma personally hadn't even been around for five years. Discussion between Achitoff and Kingma ensued, with

Achitoff removing himself from the meeting at the end of the discussion. Kingma also stated that WPFMC is trying to defend local fishermen and repeated that it's unfair that WPFMC has been blamed for holding up this process.

Corson explained option 2.5 – drawn directly from H.R. 2376.

Wilhelm explained that option two is the Executive Order, with some assumptions made. Schug suggested there be another alternative that also helps the bottomfishermen with the SPAs. Gomes talked about his boat capacity and the fact that one can't possibly catch 8,000 plus pounds during a single fishing trip. Gomes stated that he is already regulated pretty tight, in the current system. He also commented on the weather and its influence on fishing in the NWHI. Grabowsky also asked about the yellow areas on the map (yellow SPA's) and how that would affect his fishing. Gomes commented that it really doesn't matter what you block out, in terms of the yellow areas on the map, there are "higher powers" in line that will wipe him out.

Kem Lowry asked about the status of all the alternatives. 1) How many alternatives 2) what regulations are associated with each alternative 3) boundaries set forth for each alternative. Kem Lowry also asked, politically what would be better for the RAC to put forth, more or less alternatives. Wilhelm replied that in order for more than one recommendation to be included in the DEIS there would need to be distinguishing characteristics between them and if the RAC provides more than one, there is no guarantee they will all be included in the DEIS for analysis. Lloyd Lowry commented that there should be one alternative that should be different from everyone else's and that political reality and all that other outside issues shouldn't be paid attention to.

Schug stated that he noted that it seemed like the RAC wanted to see an alternative which allowed the current bottomfishermen awhile to fish (10 or 20 years). Zimmerman commented that he would like to see either the current fishing permits non-transferable or a buy-out the fishermen. Grabowsky talked about trying to encourage the buy-out of fishermen that don't have bottomfishing as much "in their hearts" (referring to Bobby).

Thompson asked Gomes how much monk seals actually interact with the fishermen. Gomes stated that they see one once every other trip or so. Not very often. Kingma stated that in 1990-1993 and over a period in the later 1990's the observer program reported that there were no interactions with monk seals observed.

Hunter stated that the yellow map alternative would make the NWHI the largest protected area in the world and that other countries would try to beat the US.

Paul asked the RAC if there was any way they (RAC) could get something worked up into a resolution over lunch. Wilhelm stated that staff would work on it after asking some questions. Questions continued.

Conversation continued on length of time bottomfishing should be allowed in the RAC alternative to be submitted for consideration in the DEIS. Ingram then mentioned that

while fishing has been addressed, there also needs to be attention paid to recreational permits.

Zimmerman commented that recreational tourism activities could be covered through educational and research activities; Zimmerman used Hokule'a as an example. Zimmerman stated that he would be fine with sticking with the regulations in H.R. 2376 regarding ocean tourism and recreational activities. Palawski stated that "ocean-related tourism" activities should be labeled "wildlife-dependent" activities.

Wilhelm stated that H.R. 2376 also mentions no commercial activities and that the RAC needs to define what "commercial activities" means. The group stated that commercial activities happen when money is exchanged to conduct an activity. Discussion continued on the definition of commercial activities. Grabowsky stated that she wanted to define which actual activities are allowed as commercial and which aren't.

#### IV. PUBLIC COMMENT

Moved to afternoon

The meeting adjourned at 12:17 pm for lunch.

#### LUNCH

#### V. DISCUSSION ON DRAFT ALTERNATIVE(S) AND MANAGEMENT PLAN RESOLUTIONS (CONTINUED)

Discussion resumed at 1:24 pm.

Paul and Corson passed out another handout table with option 2.5, and the modified option discussed from the morning. Paul suggested that members go down the list and discuss each row at a time, starting with landward boundary.

Palawski asked which regulations are the most restrictive and then stated that where there's overlap, the stricter regulations would apply. Palawski then stated that to the degree that the state and NOAA regulations match up, the better. Johns stated that he didn't know what the state's position will be in regards to H.R. 2376. Johns then commented that he won't depart from the state's current position on the state-designated refuge in the NWHI from last week. Johns stated that the state's position is still supportive of recreational fishing in federal waters, continued bottomfishing (grandfathering with buyout provision), also supportive of recreational tourism.

Wilhelm briefly reviewed the conversation from this morning for Johns. Discussion commenced on what the Council (RAC) would like to see as a preferred alternative. Paul stated that from the conservation standpoint she would like to see state waters included in the sanctuary. Corson took notes on computer big screen. Zimmerman voiced that the RAC should simply vote on the H.R. 2376 option.

Discussion then continued on specifications to be noted in the RAC's alternative, starting with the Landward Boundary and continuing to finish with Sportfishing. Kingma stated that WPFMC is not part of the consensus in the exercise discussed above. Discussion continued on sending the newly developed RAC alternative to Representative Ed Case for consideration in markup of his bill (H.R. 2376). Kingma commented that WPFMC's position is that they do not support a phase-out with pelagic and bottomfishing.

Discussion on including education in the RAC's alternative, because H.R. 2376 doesn't include much on education.

#### PUBLIC COMMENT

Chair Johns called for public comment at 2:52 pm.

Dave Raney (Sierra Club) complimented the state on their job with state refuge designation. Raney stated that he'd be disappointed if the RAC wouldn't go the same way regarding protection in the NWHI. Raney stated that the NWHI are unique and shouldn't follow the NMSP mold.

Raney mentioned using precautionary principles and a permitting system. Raney expressed concerns about the draft management plan and the adaptive management concept, and warned against leaving things out of the management plan. Raney cautioned against using the adaptive management concept terms the wrong way. Raney stated that he would like to see all "experimental" activities removed from the management plan. Raney also cautioned against the term "resiliency" and experimenting on corals.

Raney mentioned the January 26-27, 2005 RAC meeting minutes and the Hi'ialakai resolution. Wondering its status and then if the Hi'ialakai has enforcement on board pursuant to that resolution. Raney then stated that it's important to be careful with the permitting system and interagency coordination. (For Raney's submitted oral comments, see attachment 1).

Cha Smith (KAHEA) then presented her testimony. Smith talked about proposed buyouts, and asked that there be a condition on the continuation of fishing, that fishing be allowed unless it has a significant impact on the resource without assessing the fishing impact on the resource. (For Smith's submitted oral comments, see attachment 2).

Smith stated that she had concerns that elimination of the SPA's was not scientific and based on an emotional response. Smith stated that she believes the RAC's job is to protect the resource (NWHI) and that it's important to weigh the value of the resource is that isn't being fished. Smith commented that she thought that the RAC should re-evaluate the RAC's proposal on the elimination of the SPA's. Smith stated that in her opinion, the more protected the sanctuary is, the more a buyout would be encouraged. Smith also stated that she thought it important to eliminate the economic mandate of extraction through WPFMC in the NWHI. Smith commented that she would like to see WPFMC eliminated from the equation.

## DISCUSSION ON THE RAC'S PROPOSED ALTERNATIVE (continued)

Carol Wilcox stated that one way to vote on the proposed alternative would be to vote on H.R. 2376 and add the RAC's comments. Zimmerman asked what would happen when the RAC votes on the alternative. Wilhelm explained the DEIS process and the range of alternatives and commented that the alternative has to stand up to NEPA (National Environmental Policy Act).

Wilcox asked if the H.R. 2376 alternative was more conservative. Johns stated that it wasn't necessarily more conservative. Zimmerman stated that he wants to vote on H.R. 2376 as is and as the RAC's alternative. Wilhelm stated that staff will be researching H.R. 2376 and talking to Representative Case's staff. Hunter stated that when compared to the Case proposal (H.R. 2376), there's very little in option C (RAC alternative) that is different from H.R. 2376. Hunter added that everything in option C has added and enhanced H.R. 2376.

## VI. ACTION ITEMS

- A. Motion: To accept option C as the RAC's preferred alternative to be considered in the DEIS with the understanding that it be defined as a general endorsement of the spirit of the Case proposal (H.R. 2376) as refined and improved upon by the RAC's expertise.  
Proposed by: Kem Lowry  
Seconded by: Cindy Hunter  
Approved 9-2  
Ayes: William Aila; Bobby Gomes; Gail Grabowsky; Cindy Hunter; Kem Lowry; Linda Paul; Don Schug; Carol Wilcox (for Laura Thompson); Matthew Zimmerman (for Birgit Winning)  
Nays: Louis "Buzzy" Agard; Tim Johns

### Discussion:

Johns stated that the state hasn't had the opportunity to review the Case proposal and it's inconsistent with the position the state took a week ago (with the designation of the state refuge). As the state representative, Johns voted against the alternative, option C.

Palawski stated that the USFWS doesn't have a position and still is analyzing H.R. 2376. Schug wanted make a point that H.R. 2376 is consistent with the state's level of protection. Wilhelm stated that NOAA doesn't have a position, still analyzing H.R. 2376. Kingma again stated that WPFMC stated its opposition earlier. Agard voted against the option C. alternative.

Wilhelm stated that this option (option C) is based on H.R. 2376 and comments stated at the June 1<sup>st</sup>, 2005 presentation by Representative Case at the RAC meeting; not solely on H.R. 2376 that was written on paper.

Johns stated that the Management Plan Subcommittee would continue to look at the other aspects of H.R. 2376 and conduct further research.

## MANAGEMENT PLAN RESOLUTION DISCUSSION PRIOR TO RAC VOTE

Discussion on Management Plan resolution commenced, Paul introduced the Management Plan Subcommittee draft resolution. The RAC decided that the goals and objectives under goal seven need to be changed to reflect what was decided upon in the alternative. Wilhelm commented that the staff will get back to the RAC leadership on revised goals and objectives to make them consistent with what was just voted on (RAC alternative, option C).

Palawski stated that in the organic legislation for the National Wildlife Refuge system, the key principle is wildlife first, and that is defined as all biological organisms except humans. Palawski commented that there's a hierarchy when one talks about making a management decision, one is making their management decision based on wildlife first. The way adaptive management is described, that may not necessarily be the same as the way USFWS would approach a management decision. Palawski stated that that's true in the permit section also. Palawski stated that he needs to look at the overall development of the draft management plan more and that USFWS will provide further comments to the NWHICRER staff first. Palawski stated that USFWS will use the concept of wildlife first and will incorporate that concept in the goals and objectives statement of the management plan.

Hunter stated that its not appropriate to have wildlife first concept all over the management plan. Hunter then asked about Native Hawaiian practices. Palawski stated that Native Hawaiians have a core value about land and water and apply that value would apply to activities up in the NWHI. Aila provided a point about turtle harvesting in the NWHI. Aila asked how the USFWS would feel about Native Hawaiians harvesting a sea turtle for a ceremony.

Kingma stated that WPFMC doesn't agree with the changes and recommendations regarding the management plan resolution.

Johns and Hunter commented that the RAC and NWHICRER staff look at the alternatives that were just passed and change the management plan accordingly.

Members then proceeded to go through the rest of the individual action plans mentioned in the resolution.

Johns stated that his overall comment on the management plan is that it needs to be consistent with the alternative that the RAC voted on. He stated that he wants the management plan to be consistent with the alternative approved by the RAC today. Hunter stated that there is a lack of order in the priorities that the RAC has. Hunter stated that there should be a note explaining the order in this resolution.

Johns stated that the RAC has to decide if they want to take a stance on management plan development. Johns stated that if the RAC didn't comment on the management plan development, then they would know that they participated in the process, but tabled formal decision.

The Council (RAC) then proceeded to go through their disagreement on issues within the management plan.

B. Motion: To approve the management plan resolution.

Proposed by: Linda Paul

Seconded by: Buzzy Agard

Approved 10-1

Ayes: Louis "Buzzy" Agard; William Aila; Bobby Gomes; Gail Grabowsky; Cindy Hunter; Kem Lowry; Linda Paul; Don Schug; Laura Thompson; Matthew Zimmerman (for Birgit Winning)

Nays: Tim Johns

Discussion:

Johns stated that the state's not going to support the management plan resolution because it's inconsistent with the state's position and the management plan regime that the state will set up.

Eric Kingma stated that WPFMC is not in support of the management plan resolution.

#### APPROVAL OF JANUARY 26-27 RAC MEETING MINUTES

Kingma stated that he had issues with the January RAC meeting minutes and minority opinion, lobster stock assessments needed to trap comment. Johns deferred approval of minutes until Hamilton could respond via email with her comments.

Wilhelm stated that she would like to thank all the RAC for coming back to the table despite some awkward moments in Makaha. Wilhelm also emphasized that RAC members whose terms are up are still in their respective seats until selection for those seats is made.

Schug asked if the RAC was going to vote on recommending that H.R. 2376 be included as one of the alternatives in the DEIS. Johns stated that the RAC would be sending the alternative resolution that was voted on, to Representative Case. Johns stated that he would write the cover letter to go with the RAC's alternative resolution to be sent to Representative Case.

#### VII. ADJOURNMENT

Johns adjourned the meeting at 5:14pm

## **Attachment 1.**

### ORAL COMMENTS PRESENTED BY DAVE RANEY AT JUNE 2, 2005 MEETING OF THE NWHI CORAL REEF RESERVE ADVISORY COUNCIL

Aloha Kakou:

I apologize for not being able to attend yesterday's or this morning's sessions of your meeting. I have had to attend to medical issues with my mother. I am pleased to report that she is now fine.

Due to the acts of personal courage by Peter Young of the State of Hawai'i and by Representative Case, we have leaders who have broken out of the mold of business as usual. They have proposed bold measures for the strongest levels of protection for the NWHI in perpetuity, not continually subject to five year reviews, and the RAC should support these measures.

Representative Case has correctly identified a key issue with the proposed NWHI Sanctuary which is that the underlying Sanctuary statute is based on a multi-use model appropriate for areas like California and the Florida Keys, where there are thousands of boaters and fishers along the adjacent shorelines, and a need to reconcile conflicting claims on the coastal resources. This is not the situation for the NWHI. Representative Case has correctly identified the NWHI as a special, unique setting requiring and deserving a higher level of protection than may be possible through the existing Sanctuary process.

The Case bill is clear and simple. I request that the RAC support it either in its entirety or as a clearly identifiable option for inclusion in the DEIS, where the public would have an opportunity to express support for it.

Regarding the Draft Sanctuary Management Plan, I have the following concerns:

1. In the past I have expressed concerns over the adaptive management concept. I agree that we should learn from our mistakes, but in the case of the NWHI we should act in a precautionary manner so that there are few or no mistakes to correct. The "adaptive management" concept should be used to make corrections as needed to protect the natural character of the NWHI, not as a license to allow experimental activities there under the assumption that adverse impacts could later be reversed. As Dr. Hunter and others know, coral reef ecosystems are subject to "phase shifts," or irreversible changes in structure under some conditions – such as dominance of invasive algae species, which can smother corals and be difficult or impossible to remove or control.
2. Related to the frequent references adaptive management in the DSMP in the context of "experiments," I am also concerned about possible misuse of the "resiliency" concept. Resiliency is a recent buzzword referring to the ability of coral reef ecosystems to recover from events such as coral bleaching. Generally, the concept is that the more resilient coral reefs are, the better they can withstand and recover from events such as sea temperature increases causing coral bleaching. There is also a general belief among scientists that coral reefs which are subject to fewer stressors, especially manmade stressors, are more resilient than those subject to multiple stressors – and the best strategy for protecting coral reef ecosystems from impacts of

global climate change in particular is to take actions to avoid or reduce stressors impacting reefs. The expression “resiliency” is subject to another interpretation, which is the notion that coral reefs are naturally resilient and not as fragile as may have previously been believed. The U.S. Army Corps of Engineers’ representative to the most recent meeting of the U.S. Coral Reef Task Force appeared delighted with this interpretation.

I urge the RAC to eliminate any references to “resiliency experiments” in the DSMP. It is OK to monitor the resiliency of the coral reefs of the NWHI to “natural” events such as coral reef bleaching. It is not appropriate, however, to experimentally stress this natural system in order to “tease apart natural and anthropogenic stresses” as is suggested in Activity Z-2.3 under Strategy Z-2 – **Establish a zoning research and monitoring program.**

### **3. Status of resolution regarding enforcement role for Hi’ialakai.**

I note from the minutes of the January, 2005 meeting that the RAC adopted a resolution I suggested regarding an enforcement role for the Hi’ialakai. I would like to know what the status of that resolution is, and whether or not the Hi’ialakai will be conducting any surveillance or enforcement activities as part of its current voyage.

### **4. Importance of permitting.**

As fishing activities may be phased out in the NWH, the importance of permitting for the remaining activities should not be overlooked. Even with the Case bill, the permitting component would be key to its effectiveness.

I note that some of the concerns regarding potential impacts of sustenance fishing could be controlled as necessary through conditions on permits.

The Sanctuary permit process should include strong requirements for independent, arms-length, review. We should not rely on State staff persons reviewing and approving federal permits and federal staff people reviewing and approving state permits. There must be a third party review.

Mahalo.

Dave Raney  
1621 Mikahala Way  
Honolulu, HI 96816

734-4986

Attachment 2.

NWHI RAC Meeting  
Written Testimony  
Cha Smith  
June 2, 2005

Proposal for consideration of commercial fishing activity

The continuation of bottom fishing during the phase out period shall be subject to further controls based on an assessment of potential negative impacts to cultural and/or natural resources in the Reserve/Sanctuary.